

REMARKS/ARGUMENTS

The rejections presented in the Office Action dated December 27, 2006 (hereinafter Office Action) have been considered but are believed to be improper. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

Applicant maintains the previous traversals of each of the prior art rejections (§§102(e) and 103(a)) which are based upon the teachings of U.S. Publication No. 2003/0018704 by Polychronidis *et al.* (hereinafter "Poly"), because Poly, alone or in combination with the further relied-upon teachings, does not teach each of the claimed limitations. Poly does not teach, at least, facilitating access by the network applications to value-added services provided at least in part by the terminals and a network service broker comprising at least one terminal-coupled broker, as claimed, *e.g.*, in independent Claims 1, 18, 30, 33, 40 and 41. Poly does not teach that mobile devices such as 22-1 and 22-N (asserted as corresponding to the claimed terminals) communicate with, or are coupled to, NPL agent 21 (asserted as corresponding to a network service broker), as evidenced by paragraph [0020], which specifically states: "it is desirable to provide user presence and location information to applications which require such information, from a source other than the mobile (wireless) device." None of the cited portions of Poly teach an NPL coupled to a terminal. Rather, Poly teaches that the NPL is only coupled to the wireless network and is not in communication with the mobile devices. *See, e.g.*, paragraphs [0020] and [0021]. Thus, the NPL 21 cannot correspond to the claimed terminal-coupled broker (as asserted at page 3) or the claimed network service broker which includes at least one terminal-coupled broker. *See, e.g.*, Claims 1, 18, and 40. Without a presentation of correspondence to each of the claimed limitations, the prior art rejections are improper.

With particular respect to the § 102(e) rejection, Applicant notes that to anticipate a claim, the asserted reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown

in as complete detail as is contained in the patent claim; *i.e.* every element of the claimed invention must be literally present, arranged as in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Therefore, all claim elements, and their limitations, must be found in the prior art reference to maintain the rejection based on 35 U.S.C. § 102. Applicant respectfully submits that the Examiner has not shown that Poly teaches every element of independent Claims 1, 18, 30, 33, 40 and 41 and respectfully requests that the rejection be withdrawn.

In addition, without acquiescing to characterizations of the asserted art, Applicant's claimed subject matter, or to the applications of the asserted art or combinations thereof to Applicant's claimed subject matter, Applicant has amended independent claims 1, 18, 30, 33, 40 and 41 to further characterize that a network service broker comprises at least one terminal-coupled broker to communicate directly with one or more terminals. Support for these changes may be found in the Specification, for example, at page 18, lines 14-18; therefore, the amendments do not introduce new matter. As Poly fails to correspond to the claimed invention as discussed above, Applicant submits that the claims are patentable, and the rejections should be withdrawn.

Moreover, dependent Claims 2-17, 19-30, 31 and 32 depend from independent Claims 1, 18, and 30, respectively. Each of these dependent claims also stands rejected in view of Poly. While Applicant does not acquiesce to any particular rejections to these dependent claims, including any assertions concerning descriptive material, obvious design choice and/or what may be otherwise well-known in the art, these rejections are moot in view of the remarks made in connection with independent Claims 1, 18 and 30. These dependent claims include all of the limitations of their respective base claims and any intervening claims and recite additional features which further distinguish these claims from the cited references. Therefore, dependent Claims 2-17, 19-30, 31 and 32 are also allowable over the teachings of Poly.

The traversal of the § 103(a) rejection of dependent Claims 9, 10, 12, 16 and 17 based upon the combination of Poly and U.S. Publication No. 2003/0013434 by Rosenberg *et al.* (hereinafter "Rosenberg"), is also maintained. As discussed above, Poly fails to

correspond to the limitations of independent Claim 1 (from which Claims 9-10, 12 and 16-17 depend). While Poly is solely relied upon as teaching the above-discussed limitations, the Examiner's further reliance on Rosenberg also does not overcome the above-discussed deficiencies in the teachings of Poly. Thus, the asserted combination of Poly and Rosenberg cannot, and does not, teach each of the claimed limitations of dependent Claims 9, 10, 12, 16 and 17, and the rejection should be withdrawn.

Applicant also maintains the traversal of the § 103(a) rejection of Claims 34-39 based upon the asserted combination of the teachings of U.S. Patent No. 6,957,262 to Kimura *et al.* (hereinafter "Kimura") in view of U.S. Patent No. 6,742,036 to Das *et al.* (hereinafter "Das") because the cited references alone, or in combination, do not teach each of the claimed limitations. Kimura does not teach, at least, receiving, at the service provision infrastructure, an address of the visited network service broker from a home network service broker associated with a home network, as claimed. To better illustrate the deficiencies in the rejection, the Examiner's alignment of the teachings of Kimura to the claimed limitations is illustrated below.

Applicant's Claim Limitations	Kimura
service provision infrastructure	ISP 1200
home network service broker	mobile node 160
visited network service broker	foreign router 300

First, it has not been explained how the asserted elements would correspond to the claimed structures such as how a router or mobile node (device) operates as a service broker that can expose services through agreed interfaces without disclosing the underlying end-to-end implementation (page 14, lines 3-5 of the Specification). For example, neither the asserted router nor mobile node is disclosed as having a loosely-coupled interface, which as disclosed in the Specification enables implementation at either end of a connection being changed where the application will continue working. Therefore, the asserted devices of Kimura do not correspond to the claimed limitations.

Further, Kimura teaches that a mobile node sends a foreign router address to a home gateway (“home gateway receiving a location registration request”). In contrast, Claim 34, for example, is directed to a service provision infrastructure receiving an address of the visited network service broker from a home network service broker. As discussed previously, Kimura’s server does not correspond to the claimed service provision infrastructure because Kimura expressly teaches determining the current location of a mobile terminal “not using the home network” (column 6, lines 9-13). Thus, Kimura’s server does not, and would not, receive an address of the visited network service broker from a home network service broker associated with a home network, as claimed. Moreover, the Examiner has still not identified where Kimura teaches service brokers, as claimed, or any accessing of service functionality available from a visited network. The Examiner’s reliance upon Das does not overcome the above-discussed deficiencies in Kimura as Das also does not discuss, at least, the claimed service brokers. Without a presentation of correspondence to each of the claimed limitations, the § 103(a) rejection is improper and should not be maintained.

As neither of the asserted references teaches the above-discussed limitations, a combination of the references must also fail to teach the limitations. Since the above-discussed limitations are included in independent Claims 34, 38 and 39, the rejection of each of these independent claims is improper. Applicant accordingly requests that the rejection be withdrawn.

Dependent Claims 35-37 depend from independent Claim 34. Each of these dependent claims also stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the above-discussed combination of Kimura and Das. While Applicant does not acquiesce to any particular rejections to these dependent claims, including any assertions concerning descriptive material, obvious design choice and/or what may be otherwise well-known in the art, these rejections are moot in view of the remarks made in connection with independent Claim 34. These dependent claims include all of the limitations of their respective base claims and any intervening claims and recite additional features which further distinguish these claims from the cited references. “If an independent claim is

nonobvious under 35 U.S.C. §103, then any claim depending therefrom is nonobvious.” MPEP § 2143.03; *citing In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Therefore, dependent Claims 35-37 are also patentable over the combination of Kimura and Das.

Regarding the rejection of Claim 41 under 35 U.S.C. § 101 as allegedly not being directed to non-statutory subject matter, Applicant respectfully maintains the traversal of the rejection. The Examiner asserts at page 11 of the Office Action that page 44 of the Specification teaches that a computer-readable medium could include signals. However, page 44 does not appear to include any such discussion of signals or a medium. The only use of the word “signal” in the Specification is at page 36, where the term “signal” is used to characterize the meaning of a “bearer” and such discussion appears to be unrelated to the Examiner’s assertions and the rejection. As the discussion at page 44 does not appear to render the subject matter of Claim 41 non-statutory, and since the Examiner acknowledges that the subject matter of Claim 41 is directed to tangible embodiments such as optical magnetic discs, RAM, CD ROM, PROM, Applicant maintains that Claim 41 is directed to statutory subject matter. In addition, page 47 of the Specification has been amended to characterize that a computer-readable medium would not include “signals” in accordance with the recent decision in *In re Nuijten*. If this rejection is maintained, Applicant again requests clarification and an opportunity to respond.

Applicant also maintains the previous traversal of the finality of the Office Action as the Examiner did not address the arguments that were presented in the previous response in violation of MPEP § 707.07(f). The MPEP requires that the Examiner address all arguments which have not already been responded to in the statement of the rejection, and when an Applicant traverses any rejection, the Examiner should, if he or she repeats the rejection, take note of the Applicant’s argument and answer the substance of it. *See, e.g.*, 37 C.F.R. § 1.104 and MPEP § 707.07(f). The Examiner maintained the previous rejections without addressing Applicant’s arguments related to Poly’s failure to teach facilitating access by the network applications to value-added services provided at least in part by the terminals, as claimed. Also, in response to Applicant’s arguments that the teachings of

Kimura do not teach the limitations asserted by the Examiner, the Examiner has merely recited a portion of Kimura that was previously cited, without providing any substantive response to Applicant's comments. If these rejections are maintained, Applicant requests that the Examiner provide some indication as to why Applicant's arguments were deemed unpersuasive. Without this information, Applicant is deprived of the opportunity to address the PTO's position or otherwise advance the application.

Applicant also notes that application serial number 09/996,406, from which this application claims priority, issued as U.S. Patent No. 7,254,614 on August 7, 2007.

Authorization is given to charge Deposit Account No. 50-3581 (NOKM.015CIP) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact the undersigned attorney to discuss any issues related to this case.

Respectfully submitted,

HOLLINGSWORTH & FUNK, LLC
8009 34th Avenue South, Suite 125
Minneapolis, MN 55425
952.854.2700

Date: October 26, 2007

By: Erin M. Nichols

Erin M. Nichols
Reg. No. 57,125